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- [REDACTED]
- [REDACTED]
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FILED
IN CLERK'S OFFICE
MAY 23 2016
U.S. DISTRICT COURT
DISTRICT OF MASS.

EXHIBIT 1 – STATE COURT DOCKET

5/21/2016

Massachusetts Trial Court

1484CV03606 Bisasor, Andre vs. Slavenskoj, Danslav et al

Case Type Torts
Status Date: 01/25/2016
Case Judge:
Next Event:

Case Status Closed
File Date 11/18/2014
DCM Track: F - Fast Track

All Information **Party** **Event** **Tickler** **Docket** **Disposition**

Docket Information

Docket Date	Docket Text	File Ref Nbr.
11/18/2014	Complaint	1
11/18/2014	Origin 1, Type B99, Track F.	
12/22/2014	Civil action cover sheet filed (n/a)	2
02/17/2015	Plaintiff Andre Bisasor's MOTION to extend time for service of process until 60 days filed & ALLOWED on 2/13/15. Plff shall; have 60 days from this date hereof to amend his complete and demonstrate proof of service on the defts. (Robert Gordon, Justice) notices mailed 2/13/15	3
03/13/2015	Plaintiff's Second MOTION to Extend Time to Serve Process on Defendants: ALLOWED in Part. The time for demonstrating effectuated service of process is hereby enlarged to and including May 5, 2015. No further extensions (Gordon, J.) (filed and entered 3/13/15) notice in hand 3/13/15	4
05/18/2015	Plaintiff Andre Bisasor's emergency MOTION to to extend time for service of process on deptsf iled on 5/14/15 & ALLOWED on 5/15/15, but with no further extensions. ervice on depts shall be made and returned by or before June 19, 2015, or this action may be dismissed. (Peter Lauriat, Justice) notices mailed 5/15/15	5
06/19/2015	Amended complaint of plff & jury demand (all issues) (entered 6/18/15)	6
06/22/2015	SERVICE RETURNED (summons): Harvard University & Harvard Extension School (in hand on 6/19/15)	7
06/22/2015	SERVICE RETURNED: Huntington Lambert(Defendant) (in hand on 6/19/15)	8
06/22/2015	SERVICE RETURNED: Robert H Neugeboren(Defendant) in hand on 6/19/15)	9
06/22/2015	SERVICE RETURNED: Michael Shinagel(Defendant) (in hand on 6/19/15)	10
06/22/2015	SERVICE RETURNED: Shirley R Greene (as amended)(Defendant) (in hand on 6/19/15)	11
06/22/2015	SERVICE RETURNED: Margaret C Andrews (as amended)(Defendant) (last & usual place of business on 6/19/15)	12
06/22/2015	SERVICE RETURNED: Danslav Slavenskoj(Defendant) (last & usual place of abode on 6/19/15)	13
06/22/2015	SERVICE RETURNED: Krishan Arora (as amended)(Defendant) (in hand on 6/19/15)	14
06/22/2015	SERVICE RETURNED (Philip Harding UNSERVED	15
07/02/2015	Daniel Slavenskoj's Motion for an extension of time to file a responsive pleading to plff's complaint (w/o oposition)	16
07/03/2015	Amended Memorandum in support of his motion for an extension of time to file a responsive pleading to Plaintiff's complaint pursuant to Mass.R.Civ.P.6(b) filed by Defendant Danslav Slavenskoj	17
07/06/2015	Motion (P#16) DENIED without prejudice for failure to demonstate compliance with Superior Court Rule 9(a) Robert B. Gordon, Justice) Notices mailed 7/6/2015	
07/08/2015	ORDER OF DISMISSAL (SON 1-88) re: Es.com Affiliated Companies, Jane	18

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Doe, John Doe; service not complete by deadline

✓ 07/09/2015	Defendant Danslav Slavenskoj's Emergency MOTION for an extension of time to file a responsive pleading to Plaintiff's Complaint Pursuant to Mass. R. Civ. P. 6(b)	19
07/09/2015	Notice of intent to file motion to extend time in which to file a responsive pleading	20
07/10/2015	Motion (P#19) ALLOWED (Robert B. Gordon, Justice). (entered 7/9/15) Notices mailed 7/10/2015	
07/14/2015	Notice of intent to file Motion to Dismiss by defts President & Fellows of Harvard College (misnames i the Amended Complaint as "Harvard Extension School/Harvard University") Robert H Neugeboren Michael Shinagel Huntington Lambert Shireley R Greene & Margaret C Andrews	21
07/14/2015	Defendant Ken Veda (as amended)'s Notice of intent to file motion to dismiss	
07/16/2015	Letter to Judge Gordon Request of Harvard defts for leave to exceed page limits /Memorandum of law in support of Motion to dismiss & ALLOWED (Gordon,J) Notice Sent 7/16/17	22
07/16/2015	Plaintiff Andre Bisasor's MOTION to Vacate automatic dismissal for John & Jane Doe and for extension of time to serve process on John & Jane Doe	23
07/16/2015	Plaintiff Andre Bisasor's MOTION for default order against Ken Veda (as amended)	24
07/16/2015	Affidavit of compliance by Andre Bisasor without proof of service of complaint re: Ken Veda (as amended) by certified mail no return receipt on 6/26/15	25
07/16/2015	Affidavit of compliance by Andre Bisasor with proof of service of complaint re: Ashley R Pollock (as amended) by certified mail return receipt on 6/26/15	26
07/20/2015	Plaintiff Andre Bisasor's Emergency MOTION for extension of time to respond to motion to dismiss by Defendants Harvard Extension School/Harvard University (known as President & Fellows of Harvard College), Robert H. Neugeboren; Michael Shinagel; Huntington Lambert; Shirley R. Greene; Margaret C. Andrews	27
✓ 07/20/2015	Plaintiff Andre Bisasor's MOTION for entry of default against Harvard Extension School/Harvard University (known as President & Fellows of Harvard College), Robert H. Neugeboren; Michael Shinagel; Huntington Lambert; Shirely R. Green; Margaret C. Andrews (w/o opposition)	28
✓ 07/20/2015	Motion (P#23) ALLOWED plff shall have 90 days from the date hereof to effect service of process on John and Jane Doe (Robert B. Gordon, Justice) Notices mailed 7/20/2015 (entered 7/12/15)	
07/20/2015	ORDER of default (P#24) to order against deft Vedaa (Gordon,J) Notice sent 7/20/15 (entered 7/17/15)	
07/23/2015	Opposition to Plff's motion for entry of default filed by Harvard, Robert H Neugeboren, Huntington Lambert, Michael Shinagel, Harvard Extension School (as amended), Margaret C Andrews (as amended), Shirley R Greene (as amended)	29
07/28/2015	Motion (P#27) ALLOWED. Plff's time to respond to the deft's motion to dismiss is enlarged to 8/23/15. (Robert B. Gordon, Justice) Notices mailed 7/28/2015 (entered 7/22/15)	
07/29/2015	Letter to Judge Robert B Gordon Request of plff for permission to file a rely memorandum to opposition to plff's Motion for entry of default against defts President & Fellows of Harvard College Robert H Neugboren Michael Shinagel Huntington Lambert Shirley R Greene Margaret C Andrews (hereinafter " Harvard Defts") & DENIED (Gordon,J) Notice Sent 7/29/15	30
07/30/2015	Case status changed to 'Needs review for answers' at service deadline review	
07/30/2015	Defendant Ken Vedaa (as amended)'s emergency MOTION to vacate order of default	31
08/03/2015	Motion (P#31) ALLOWED. The previously ordered Default is hereby	

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vacated (Robert B. Gordon, Justice). (entered 11/31/15) notices mailed 8/3/2015

08/03/2015	Kenneth Vedaa Jr Motion to Dismiss (w/o opposition)	32
08/03/2015	Affidavit of Kenneth W Vedaa Jr	33
08/06/2015	Response of Plaintiff to emergency motion to vacate default by Defendant Ken Vedaa and Plaintiff's Emergency Request for an extension of time to respond to Defendant Ken Vedaa's motion to dismiss	34
08/13/2015	Motion (P#34) Plff's Request for additional time to respond to Motion to Dismiss ALLOWED all response due no later than 8/23/15 The parties are further directed to exchange current contact information litigation with special instructions that may be required to insure service and are reminded that emergency motions are dismissed absent exigant circumstances going forward strict compliance with Superior Court Rule 9A will be expected (Gordon,J) Notice sent 8/12/15 (entered 8/12/15)	
08/20/2015	Emergency request to set aside allowance granted to "The Harvard depts" to file a single memorandum (per their Motion to Dismiss) for the six Harvard depts and to prohibit ex parte communications by the Harvard depts with the Judge	35
08/21/2015	Motion (P#35)) DENIED The allowance of Harvard 's motion to present consolidated memorandum of law conferred no "tactical advantage" of any laws upon the depts This was a ministerial motion and promises to assist the Court in its management of this motion -party litigation Going forward all parties are reminded that ex parte motion will not be entertained in the absence of exceptional circumstances The Court further directs the parties to comply with the August 13, 2015 order regarding the exchange of current contact information (Robert B. Gordon,)) Notices mailed 8/21/2015 (entered 8/20/15)	
08/25/2015	PROCEDURAL ORDER: The plaintiff is hereby directed, within five days of his receipt hereof, to confirm in writing that his address on file with the Court continues to be his correct mailing address. Unless the plaintiff provides the Court with notice of a changed address, the Court will presume that all postage-paid mail properly addressed to him at the address on file has been delivered and received by him. The defendants are reminded that certified mail is not required for the transmittal of ordinary pleadings. SO ORDERED. (Robert B. Gordon, Justice) Dated: August 24, 2015 Notice sent 8/24/15	36
08/31/2015	Court received letter from Plaintiff to Hon Robert Gordon regarding letter of Address & Issues Related to August 25 Procedural Order	37
08/31/2015	Affidavit of compliance with Superior Court Rule 9A regarding Plaintiff 's Opposition to Harvard Defendant's Motion to Dismiss	38
08/31/2015	Defendant Ken Vedaa (as amended)'s MOTION to Dismiss (MRCP 12b) Complaint for lack of personal jurisdiction, and failure to state claim for which relief can be granted (w/o opposition)	39
08/31/2015	Affidavit of Affidavit of compliance with 9A	40
09/01/2015	Plff's opposition to debt Ken Vedaa's Motion to Dismiss	41
09/01/2015	Memorandum: in support of plff's opposition to debt Ken Vedaa's Motion to Dismiss	42
09/01/2015	Defendant Danslav Slavenskoj's special emergency MOTION to Dismiss (MRCP 12b) Complaint of Andre Bisasor pursuant to MGL c. 231 Sec. 59h (w/o opposition)	43
09/01/2015	MOTION to Dismiss by President & Fellows of Harvard College (Misnamed in the Amended Complaint as "Harvard Extension School/Harvard University"), Robert H Neugeboren, Michael Shinagel, Huntington Lambert, Shirley R. Greene, and Margaret C. Andrews (without opposition)	44
09/01/2015	Plaintiff Andre Bisasor's emergency MOTION concerning Plff directly submitting to the Court plff's opposition to debt Ken Vedaa's motion to dismiss and a request for sanctions against Ken Vedaa	45
09/02/2015	Suggestion of bankruptcy by Plaintiff, Andre Bisasor	46
09/03/2015	Motion (P#41) The Plff is directed to re-ile his opposition to debt Vedaa's motion to dismiss and to do so in a manner compliant with	

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Massachusetts Trial Court

Superior Court Rule 9A (a)(5) ("unless leave of court has been obtained in advance all memoranda of law and opposition thereto shall not exceed 20 pages") The Piff shall have 14 days to make this filing. (Robert B. Gordon, Justice). Notices mailed 9/3/2015 (entered 9/2/15)

09/03/2015 Motion (P#37) All parties are advised that there have not been, and will not be, any ex parte communications with the undersigned. All parties are further advised that the addresses they have listed with the Court are the addresses that will be used for all mailings both from other parties and the Court. All mail that is properly stamped and addressed correctly shall be presumed to have reached the intended recipient unless returned to sender. The court will not typically entertain complaint about un-received mail in these circumstances absent demonstrable cause. Finally, the session clerk is not to be looked to as a source for legal advice or a sounding board for airing grievances about other parties or their lawyers. Her take is to manage the administrative functions of the session, and in particular, the scheduling of motions and trials. Please be respectful of her time and position. (Robert B. Gordon, Justice). Notices mailed 9/3/2015 (entered 9/2/15)

09/04/2015 Motion (P#43) The plaintiff is directed to reply to defendant Slavenskoj's Special Emergency Motion to Dismiss within 21 days of the date hereof (Robert B. Gordon, Justice) (entered 9/2/15). Notices mailed 9/4/2015

09/04/2015 Pleading (P#46) (Suggestion of Bankruptcy) In accordance with the plaintiff's suggestion of Bankruptcy, an by operation of 11 US c. sec 362, the Action is hereby STAYED as to all parties pending discharge of the bankruptcy estate or other order from the Bankruptcy Court (Robert B. Gordon, Justice) (entered 9/3/15) notice sent 9/4/15

09/04/2015 Motion (P#45) NO ACTION TAKED. The case has been stayed by order of the Court of today's date (Robert B. Gordon, Justice). (entered 9/3/15) Notices mailed 9/4/2015

09/04/2015 Motion (P#44) NO ACTION TAKED. The case has been stayed by order of the Court of today's date (Robert B. Gordon, Justice). (entered 9/3/15) Notices mailed 9/4/2015

09/04/2015 Court received letter from Defendant Slavenskoj to Hon. Robert Gordon regarding his motion to Dismiss: NO ACTION TAKEN. The case has been stayed in consideration of the Plaintiff's suggestion of bankruptcy as of today's date (Gordon, J.) (filed and entered 9/3/15) notice sent 9/4/15

47

09/11/2015 Emergency Opposition to Plaintiff's suggestion of bankruptcy filed by Defendant Danslav Slavenskoj

48

09/17/2015 Emergency Opposition (P#48) Treating this submission as a Request for Reconsideration of the Court's decision to stay the Plaintiff's action pending further direction from the Bankruptcy Court, the request is DENIED. (Robert B. Gordon, Justice). Dated 9/15/15 Notices mailed 9/16/2015

10/01/2015 Defendant Harvard Extension School (as amended), Robert H Neugeboren, Michael Shinagel, Jane Doe's Assented to Motion to lift stay

49

10/06/2015 Appearance entered
On this date Joseph P Dever, Esq. added for Defendant Philip Harding (as amended)

11/10/2015 Endorsement on Motion to lift stay by the defts (#49.0): ALLOWED
upon review, no opposition having been filed and the law, in any event, being clear. And the defts' motion to dismiss is set down for 1/26/16 @ 2:00pm. (entered 11/2/15) notices mailed 11/9/15

12/11/2015 The following form was generated:

Notice to Appear
Sent On: 12/11/2015 10:21:52

12/11/2015 The following form was generated:

Notice to Appear
Sent On: 12/11/2015 11:12:02

01/14/2016 The following form was generated:

5/21/2016

Massachusetts Trial Court

Notice to Appear
Sent On: 01/14/2016 15:37:50

01/20/2016	Defendant Krishan Arora (as amended), Philip Harding (as amended), Ashley R Pollock (as amended)'s Motion to dismiss all counts of Plaintiff's Amended Complaint (w/o opposition)	50
01/20/2016	Request for hearing filed Applies To: Pollock (as amended), Ashley R (Defendant); Harding (as amended), Philip (Defendant); Arora (as amended), Krishan (Defendant)	51
01/22/2016	Notice of Removal to the United States District Court filed by Plaintiff Applies To: Bisasor, Andre (Plaintiff)	52
01/25/2016	Event Result: The following event: Rule 12 Hearing scheduled for 01/26/2016 02:00 PM has been resulted as follows: Result: Canceled Reason: Request of Plaintiff	
01/25/2016	REMOVED to the U.S. District Court of Massachusetts	
01/25/2016	Case transferred to another court.	

**EXHIBIT 2– EMAIL SHOWING DATE HARVARD NOTIFIED ME OF
THEIR MOTION TO LIFT STAY IN STATE COURT**

-----Original Message-----

From: William Mekrut <wmekrut@murphyriley.com>

To: Andre Bisasor <quickquantum@aol.com>

Cc: Stephen D. Coppolo <SCoppolo@murphyriley.com>; John Coakley <jcoakley@murphyriley.com>

Sent: Thu, Sep 17, 2015 5:11 pm

Subject: Bisasor v. Harvard, et al.



Dear Mr. Bisasor, I have attached to this email in PDF a courtesy copy of the Motion to Lift the Stay by the Harvard Defendants, which was served by regular mail on September 14, 2015.

-Bill Mekrut.

William P. Mekrut

Murphy & Riley, P.C.

101 Summer Street, 2nd Floor

Boston, MA 02110

Telephone: 617-423-3700

Facsimile: 617-423-1010

www.MurphyRiley.com

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**EXHIBIT 3 – PROFILE ON JUDGE PETER LAURIAT SHOWING
TEACHING AFFILIATION WITH HARVARD**

Voice of the Judiciary

By Judge Peter M. Lauriat

Observations From The Bench:

Eight Ways to Succeed At Trial



Hon. Peter M. Lauriat has been an Associate Justice of the Massachusetts Superior Court since 1989. Prior to joining the Superior Court, Judge Lauriat practiced law for 17 years, specializing in civil and criminal litigation.

Judge Lauriat has taught at Harvard Law School and the National Judicial College, and has written and lectured nationally on litigation and jury trial issues and techniques. He is an editor and contributor to several publications, and is a member of the Massachusetts Supreme Judicial Court's Jury Management Advisory Committee.

One of the occupational hazards of sitting on the bench is being asked frequently about those things lawyers do that most please - or displease - the judge. Each of us has observed, over years of experience, a number of acts or omissions by attorneys who appear before us that please us immensely or drive us to distraction. At the request of the Board of Editors, I herewith present my list of the esteemed and egregious, which are really both sides of the same coin.

Share with jurors. Jurors and exhibits are two important components of a jury trial. Yet too many lawyers, who work hard to seat good jurors and get important exhibits into evidence - then fail to share the latter with the former. Successful lawyers will share every admitted document and photograph with their jury - passing them among the jurors, giving them copies, creating notebooks of admitted exhibits for them, using blow ups or displaying the exhibits on a television monitor. Keeping exhibits from the jury until deliberations simply does not work.

Minimize objections. Too often, a lawyer will object to questions, answers or other evidence that while objectionable under our rules of evidence, are not harmful to their case. A wise attorney will evaluate the question's effect or impact, and save objections, and the judge's and jury's patience, until a matter arises that is not only important, but could have an impact on the outcome. While this decision must often be made quickly, over time lawyers can learn to make it effectively. The fewer

unnecessary interruptions that the jury observes or endures, the better.

Limit side-bars. Surprisingly to some attorneys, judges are not fond of side-bars. Needless to say, neither are jurors. A corollary to avoiding unnecessary objections is not wearing a path to the side of the bench. Both judge and jurors appreciate an economical, briskly paced presentation of evidence, interrupted as infrequently as possible. While seeking numerous side-bars may not make or break your case, it may affect the jurors' view of your confidence in your claims or defenses. "What was he or she trying to hide" is a frequent comment from jurors when I ask them after trial about their reactions to side-bars.

Avoid repetition. One of the most frequent complaints that jurors, and judges, voice is about questions that are asked repeatedly of a witness, or of several witnesses. For example, asking the sixth expert medical witness what it means to be board certified will cause audible groans among jurors. In those circumstances, I have been tempted to ask if anyone still does not understand the process of board certification. Jurors usually get it the first time, and if they don't, one will usually ask me to ask the witness a similar question (note my subtle plea to allow jurors to ask questions).

Prepare instructions carefully. A lawyer will have a much greater chance of securing the use of proposed instructions if they accurately and impartially reflect the law. Instructions that misquote or misstate the law are not only disfavored, but reflect poorly on the lawyer who

EXHIBIT 4 - ORDER OF RECUSAL (JUDGE PATTI SARIS)

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
KIMBERLY THEIDON,)	
Plaintiff)	
)	
v.)	Civil Action No. 15-10809-PBS
)	
HARVARD UNIVERSITY, ET AL)	
Defendants)	
_____)	

RECUSAL ORDER

June 18, 2015

SARIS, U.S.D.J.

I recuse myself on the ground my husband is a Professor at
Harvard University.

/s/ PATTI B. SARIS
Chief United States District Judge

EXHIBIT 5 – SCREENSHOT OF STATE COURT DOCKET SHOWING CASE IS CLOSED IN STATE COURT

Massachusetts Trial Court
Electronic Case Access

1484CV03606 Bisasor, Andre vs. Slavenskoj, Denslav et al

Case Type: Torts
Status Date: 01/25/2016
Case Judge: [blank]
Next Event: [blank]

Case Status: Closed
File Date: 10/10/2014
DCM Track: P - Fall Track

All Information Party Event Taker Book Disposition

Party Information

Party	Attorney/Bar Code	Phone Number	More Party Information
Bisasor, Andre - Plaintiff			More Party Information
Slavenskoj, Denslav - Defendant			More Party Information
Es.com Affiliated Companies - Defendant			More Party Information
Harvard - Defendant			More Party Information
Neugeboren, Robert H. - Defendant			More Party Information
Lambert, Huntington - Defendant			More Party Information
Doc, Jane - Defendant			More Party Information

Attorney/Bar Code: [blank]
Phone Number: [blank]
Coakley, Esq. John P. (508885)
Coppola, Esq. Stephen David (617342)
Mekrut, Esq. William P. (617359)

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6:30 PM 5/21/2016

EXHIBIT 6 - RULING ON TRUSTEE APPLICATION TO EMPLOY

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
(Eastern Division)

In re:

ANDRE BISASOR,

Debtor.

Chapter 7

No. 15-13369-JNF

APPLICATION OF CHAPTER 7 TRUSTEE TO EMPLOY COUNSEL

TO THE HONORABLE HONORABLE JOAN N. FEENEY,
UNITED STATES BANKRUPTCY JUDGE

John J. Aquino, the duly appointed Chapter 7 trustee (the "Trustee") of the estate of Andre Bisasor, the debtor herein (the "Debtor"), hereby submits this application for authority to retain the law firm of Anderson Aquino LLP as counsel to the Trustee. In support of this Application, the Trustee respectfully represents as follows:

1. On Aug 27, 2015 (the "Petition Date"), the Debtor filed a voluntary petition for relief under Chapter 13 of the United States Bankruptcy Code, 11 U.S.C §101 *et seq.* (the "Bankruptcy Code"). On January 6, 2016, the Court entered an Order converting the Debtor's Chapter 13 case to a case under Chapter 7 of the Bankruptcy Code. Thereafter, the Trustee was appointed Chapter 7 Trustee by the United States Trustee for the District of Massachusetts and continues to serve in that capacity.

2. The Trustee hereby applies for authority to employ the law firm of Anderson Aquino LLP as his attorneys under a general retainer for services to be rendered regarding the following:

(a) To assist, advise and represent the Trustee in the administration of this case;

(b) To assist, advise and represent the Trustee in any investigation of the acts, conduct, assets, liabilities and financial condition of the Debtor, and to direct the activities of accountants and other professionals that are employed by the Trustee;

05/09/2016 Application granted.



**EXHIBIT 7 – HARVARD’S MOTION FOR STAY IN ANOTHER
DISCRIMINATION LAWSUIT WHEREIN HARVARD MAKES THE
ARGUMENTS THAT CONTRADICTS THEIR ARGUMENTS THEY
HAVE MADE IN THIS CASE**

&

**HARVARD CRIMSON ARTICLE ON HARVARD’S REQUEST FOR
DELAY IN ANOTHER DISCRIMINATION LAWSUIT**

**UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF MASSACHUSETTS
BOSTON DIVISION**

STUDENTS FOR FAIR ADMISSIONS, INC.,

Plaintiff,

v.

PRESIDENT AND FELLOWS OF HARVARD
COLLEGE (HARVARD CORPORATION),

Defendant.

Civil Action No. 1:14-cv-14176-ADB

Leave to File Granted July 21, 2015
(Dkt. 77)

REPLY MEMORANDUM
IN SUPPORT OF HARVARD'S MOTION TO STAY

In an opposition laden with more invective than analysis, Plaintiff Students for Fair Admissions, Inc. ("SFFA") portrays as radical the common-sense notion that before the parties undertake a year's worth of costly and intrusive discovery, they should wait for the Supreme Court's imminent clarification of the law—a clarification invited by SFFA's own counsel, in a suit backed by its President. In addition to misstating this Court's substantial discretion to manage its docket, SFFA overstates the prejudice its members would purportedly suffer from a temporary stay and sharply understates the relevance of *Fisher II*. By entering a stay pending the Supreme Court's resolution of that case, this Court would not be licensing "the obstructive tactics once employed to continue racial discrimination" during the Civil Rights era (Opp. 16); it would be exercising its discretion in the manner most consistent with fairness, efficiency, and judicial prudence.

I. SFFA Misstates The Law Governing Stays

"It is beyond cavil that, absent a statute or rule to the contrary, federal district courts possess the inherent power to stay pending litigation when the efficacious management of court

dockets reasonably requires such intervention.” *Marquis v. FDIC*, 965 F.2d 1148, 1154 (1st Cir. 1992). Harvard does not dispute that the power to stay litigation requires “the exercise of judgment, which must weigh competing interests[.]” *New Balance Athletic Shoe, Inc. v. Converse, Inc.*, No. 14-cv-14715, 2015 WL 685070, at *1 (D. Mass. Feb. 18, 2015) (quoting *Landis v. N. Am. Co.*, 299 U.S. 248, 254-255 (1936)).

SFFA errs, however, in suggesting that any potential prejudice to its members (which, as explained below, SFFA significantly overstates) is the *only* factor that should weigh in the Court’s discretionary judgment. As SFFA’s own cases establish, prejudice to the non-movant is just one factor that bears on the appropriateness of a stay. In *Alves v. Prospect Mortgage, LLC*, No. 13-cv-10985, 2013 WL 5755465, at *2 (D. Mass. Oct. 22, 2013), for example, this Court identified three factors affecting whether to stay litigation pending the outcome of related proceedings: “(1) potential prejudice to the non-moving party; (2) hardship and inequity to the moving party without a stay; and, (3) judicial economy” (internal quotation marks omitted). And in *Goldhammer v. Dunkin’ Donuts, Inc.*, 59 F. Supp. 2d 248 (D. Mass. 1999), the Court identified six factors that courts weigh “in determining whether to grant a stay because of parallel litigation in a foreign forum,” of which prejudice to a party is just one. *Id.* at 252-253. Notably, although SFFA cites *Goldhammer* for the proposition that the power to grant a stay should be exercised sparingly, the Court in that case *granted* a stay (*id.* at 253), despite finding that doing so would cause some prejudice to the non-moving parties (*id.* at 255).¹

SFFA’s suggestion that prejudice to the non-movant is at least the preponderant factor relies on the Supreme Court’s statement that “the suppliant for a stay must make out a clear case

¹ See also *Consol. Edison Co. of New York v. United States*, 30 F. Supp. 2d 385, 389 (S.D.N.Y. 1998) (identifying “five factors courts consider in deciding whether to grant a stay” pending overseas litigation).

of hardship or inequity in being required to go forward, if there is even a fair possibility that the stay for which he prays will work damage to some one else.” *Landis*, 299 U.S. at 255. But that statement does not imply that where granting a stay would prejudice the non-movant and denying it would prejudice the movant, the former harm should outweigh the latter. It addresses only the fact that a movant—who bears the burden of justifying the stay—must carry that burden to demonstrate that these competing harms weigh in favor of a stay. Moreover, the Supreme Court clarified that “[c]onsiderations such as these ... are counsels of moderation rather than limitations upon power.” *Id.* Here, the balancing of the applicable factors weighs in favor of a delineated stay, and this Court’s discretion to manage its docket authorizes it to take that action.²

* → Finally, SFFA argues (at 2) that “a stay ‘is rarely appropriate’ when the parallel litigation ‘will not dispose of the entire case.’” But the case from which SFFA quotes—*Chavous v. D.C. Financial Responsibility & Management Assistance Authority*, 201 F.R.D. 1 (D.D.C. 2001)—says nothing of the sort. It says that “a stay of discovery pending determination of *a motion to dismiss* is rarely appropriate when *the pending motion* will not dispose of the entire case[.]” *Id.* at 3 (internal quotation marks omitted) (emphasis added). On the question that is actually before this Court—whether to stay this case pending related litigation—the First Circuit has said quite the opposite, holding that a district court may stay a given action “pending resolution of another” even if the other action would “‘not dispose of all the questions involved,’” as long as it would “narrow the issues in the pending cas[e] and assist in the determination of the questions of law

² SFFA also argues (at 3) that “a stay is especially difficult to secure in cases where the plaintiff has ‘alleged ... continuing harm and sought ... injunctive or declaratory relief.’” But the language that SFFA quotes from *Lockyer v. Mirant Corp.*, 398 F.3d 1098 (9th Cir. 2005), says no such thing; it simply mentions that a prior case declined mandamus to disturb a stay in part because the plaintiff was seeking only damages.

involved.” *Taunton Gardens Co. v. Hills*, 557 F.2d 877, 879 (1st Cir. 1977) (quoting *Landis*, 299 U.S. at 253).

II. SFFA Overstates The Prejudice That A Stay Would Cause

SFFA also overstates the degree of prejudice that would actually result from a temporary stay pending the resolution of *Fisher II*.³ There are two principal problems with SFFA’s argument.

First, even an eleven-month delay in this litigation (from the current date to the last possible date for resolution of *Fisher II* in June 2016) would not be particularly significant, in light of the fact that (1) more than a quarter-century has elapsed since the Department of Education examined (and exonerated) Harvard’s race-conscious admissions practices against essentially the same challenge SFFA now brings; (2) SFFA has taken the position that discovery in this case should extend well into 2016 in any event; and (3) this delay is the direct result of parallel litigation (in three courts at once) brought by SFFA’s counsel and backed by its President.

Second, at most a small handful of SFFA’s purported members⁴—and quite possibly none—would be affected by that delay. Although SFFA suggests (at 3) that “the 2016-2017 cycle” is “the first admissions cycle in which a judgment in SFFA’s favor likely would take effect” absent a stay, that is unlikely. Summary judgment motions are not due until mid-October

³ Because this is not a class action, the only prejudice alleged by SFFA that could possibly be relevant to the Court’s consideration of a stay is the prejudice that a stay would cause to SFFA’s own members.

⁴ Harvard refers to SFFA’s purported members as “members” for purposes of this motion, but reserves the right to argue that SFFA lacks standing to pursue this litigation because its purported members lack any genuine membership relationship with the organization, and further reserves the right to argue that the only members whose individual standing can be attributed to SFFA are those who joined prior to the filing of this action.

2016, with briefing through late November 2016. Even if the Court were to rule quickly on the motions, any judgment in SFFA's favor would be unlikely to issue before Harvard was already well into its regular admissions cycle for 2016-2017. Thus, the earliest admissions cycle to which any judgment in SFFA's favor could apply would be 2017-2018.

The proposed stay would therefore not affect any of SFFA's rejected-applicant members [REDACTED] (see Declaration of Felicia H. Ellsworth ("Ellsworth Decl."), Ex. B), as those members would by that point be ineligible to apply for transfer admission.⁵ And it would not affect the ability of all but three of SFFA's future-applicant members to apply for freshman admission. The only three members who intend to apply for admission in 2017-2018 or subsequent cycles plan to apply in three different years ([REDACTED], see Ellsworth Decl., Ex. B), so a temporary stay of no more than a year could affect at most a single one of them.

* → Moreover, Harvard would have ample grounds to seek a stay pending appeal of any adverse judgment—and given the typical timeline of proceedings in the First Circuit and the Supreme Court, it is far likelier that the first admissions cycle affected by any decision would be 2019-2020, an admissions cycle in which SFFA has identified no member who plans to apply. See *id.* (identifying future-applicant members who plan to apply in [REDACTED] [REDACTED]). Since the [REDACTED] applicant would not be adversely affected by delaying the effect of an adverse judgment from 2019 to 2020, the likeliest scenario is that *not one* of SFFA's members would be harmed by a stay.

⁵ See Harvard College Admissions & Financial Aid, Transfer Eligibility, <https://college.harvard.edu/admissions/application-process/transferring-harvard-college/transfer-eligibility> (last visited July 20, 2015).

SFFA thus substantially overstates the likelihood that a stay in this matter would cause any prejudice. Such a stay might well have zero effect on any of SFFA's purported members. At most, a stay could conceivably affect *one* of SFFA's three members who claim that they plan to apply for freshman admission during the [REDACTED] admissions cycles.

The likelihood of prejudice to a non-movant is, as noted above, just one among the factors that a district court must balance in determining whether to enter a stay. Here, the speculative possibility of an adverse effect on a single hypothetical applicant does not justify allowing eleven months' worth of costly and burdensome discovery, much of which implicates serious individual privacy considerations, to proceed against a non-profit educational institution while—at the behest of SFFA's own counsel—the Supreme Court clarifies the governing law.⁶

III. SFFA Understates The Relevance Of *Fisher II*

SFFA seriously understates the connection between this case and *Fisher II*. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. Ellsworth Decl., Ex. A. SFFA's President, who has also been heavily involved in the *Fisher* litigation, has explained publicly that he sees that case and this one as parts of an integrated litigation strategy.⁷ Even aside from the fact that *Fisher II* will provide just

⁶ SFFA has even less basis to suggest (at 5) that a temporary stay could result in the destruction of evidence.

⁷ See Houston Chinese Alliance, *Edward Blum Speaks About The Legal Battle Against Harvard University*, YouTube (Apr. 26, 2015), <https://www.youtube.com/watch?v=VVVuhD0KelQ> ("When we filed [*Fisher*], we didn't ask the Court to [end the use of race and ethnicity in higher education], because we felt that it would take a couple of cases to develop our theories and find the right set of facts to do it. But if we

the fifth occasion in the past four decades for the Supreme Court to address the permissible consideration of race in university admissions, it strains credulity for SFFA to contend that *Fisher II* bears only marginal relevance to this case.

As Harvard's opening Memorandum explains, the petition for certiorari in *Fisher II* asks the Supreme Court to resolve a number of questions that lie at the very heart of SFFA's theory of this litigation. It asserts, for example, that a university's decision to consider race in admissions must be measured against the reasons that the university expressed at the time of making that decision, as opposed to those that the university asserts in litigation. Petition for Certiorari, *Fisher v. University of Texas at Austin* (U.S. Feb. 10, 2015) (No. 14-981) ("*Fisher II* Pet.") 14-19. It asserts (at 19-25) that a university must measure its attainment of diversity in a quantitative, not qualitative, manner. And it asserts (at 25-29) that a university may consider race only in filling the last few places in a class.

In its opposition, SFFA now claims (at 12) that these issues have all been so clearly settled that *Fisher II* cannot clarify the law. But the Fifth Circuit obviously did not regard them as settled, or SFFA's lawyers would not be asking the Supreme Court for relief. And while SFFA claims that certain of the issues are not even before the Court in *Fisher II*, that assertion is impossible to square with the petition for certiorari.⁸ Despite SFFA's effort to paint the grant of

win again at the Supreme Court, we think the hurdle that they articulated the first time in 2013, that hurdle will be raised, it will be more fully fleshed out, and at least for the next two or three years while the Harvard lawsuit is being pursued and the UNC lawsuit is being pursued, it will be harder for universities to use race and ethnicity[.]").

⁸ Compare Opp. 13 (arguing that *Fisher II* does not "raise the question whether 'a university's decision to consider race in admissions must be measured against the reasons that the university expressed at the time of making that decision') and *id.* ("SFFA alleges that Harvard is using race neither as a 'plus' factor in accordance with *Grutter* nor to fill the 'last few places' in the freshman class in accordance with [*Bakke*]. *Fisher II* raises none of these issues." (citations omitted)) with *Fisher II* Pet. 15 (criticizing the Fifth Circuit for having been "'persuaded' by UT's ... post hoc rationalizations for its decision to reintroduce racial

certiorari in *Fisher II* as a drama-less and irrelevant affair, SFFA's own President has stated that he expects the Supreme Court's resolution of *Fisher II* to "flesh[] out" the law governing the consideration of race in admissions and to "continue[] to narrow the use of race."⁹

SFFA accuses Harvard of insufficient specificity in addressing how the Supreme Court's resolution of *Fisher II* will affect discovery in this case. It is, of course, difficult to be precise in addressing the effect of an opinion without knowing its contents. But Harvard *has* identified the issues on which *Fisher II* could well shape the law, and any clarification of the law on those issues surely would affect not only the scope of permissible fact and expert discovery, but also the parties' discovery and litigation strategies, which naturally operate under the Supreme Court's guidance on the governing standards for the use of race in university admissions. As this Court is already aware (*see* SFFA's Motion to Compel, Doc. 64), the parties disagree about whether SFFA is entitled to discovery of the massive scope it seeks. The balance the Court will need to strike on this and other disputes regarding the scope of permissible discovery will undoubtedly be influenced by the contours of the governing law.¹⁰

preferences") and *id.* at 27 ("Bakke never contemplated the wholesale use of race in the scoring of all applicants.").

⁹ See *supra* note 7; Tamar Lewin & Richard Pérez-Peña, *Colleges Brace for Uncertainty as Court Reviews Race in Admissions*, N.Y. Times, July 1, 2015, at A14 ("Like most Americans, I hope this case presents the court the opportunity to end racial classifications in higher education, in total,' said Edward Blum, the president of the Project on Fair Representation, which provided counsel to Ms. Fisher 'But if the court just continues to narrow the use of race, we would see that as a great victory, too.'").

¹⁰ SFFA also derides as "absurd" (Opp. 7) the notion that *Fisher II* might cause Harvard to reexamine its admissions practices, causing this litigation to become moot and wasting the intrusion and expense of a year's worth of discovery. But SFFA's suggestion that this case would *not* be mooted by a change to Harvard's admissions practices depends on the notion that it would fall within the voluntary-cessation exception to mootness. Opp. 7 (citing *City of Mesquite v. Aladdin's Castle, Inc.*, 455 U.S. 283, 289 (1982)). That exception does not apply where it is "absolutely clear that the allegedly wrongful behavior could not reasonably be expected to recur" (*Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 170 (2000)), as

* * *

For the foregoing reasons and those expressed in Harvard's opening Memorandum, Harvard respectfully requests that the Court enter a temporary stay of this litigation pending the Supreme Court's forthcoming decision in *Fisher II*.¹¹

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would surely be true if the Supreme Court's ruling in *Fisher II* led Harvard to substantially revise, and perhaps abandon altogether, a practice it considers essential to its educational mission.

¹¹ SFFA asks (at 16 n.4) that the Court "issue a written explanation" of any decision granting the requested stay, so as "to aid the First Circuit and potentially the Supreme Court in reviewing that decision." Of course, whether or not accompanied by written reasoning, a temporary stay of litigation is not ordinarily appealable. *See, e.g., Moses H. Cone Mem'l Hosp. v. Mercury Const. Corp.*, 460 U.S. 1, 10 n.11 (1983) ("[A] stay is not ordinarily a final decision for purposes of § 1291, since most stays do not put the plaintiff 'effectively out of court.'").

**EXHIBIT 8 – HARVARD’S COUNSEL EMAILS RELATING TO
THEIR MOTION TO REMAND**

-----Original Message-----

From: William Mekrut <wmekrut@murphyriley.com>

To: Andre Bisasor <quickquantum@aol.com>

Sent: Tue, Feb 23, 2016 4:59 pm

Subject: RE: Bisasor v. Harvard, et al., USDC MA 16-cv-10105, Suffolk Superior Court, 14-03606

Mr. Bisasor – I will have availability to discuss at various points tomorrow or Thursday afternoon if there are areas you would like to discuss regarding narrowing the issues. If so, please give me a call.

-Bill.

William P. Mekrut

Murphy & Riley, P.C.

101 Summer Street, 2nd Floor

Boston, MA 02110

Telephone: 617-423-3700

Facsimile: 617-423-1010

www.MurphyRiley.com

-----Original Message-----

From: William Mekrut <wmekrut@murphyriley.com>

To: Andre Bisasor <quickquantum@aol.com>

Sent: Fri, Feb 19, 2016 5:46 pm

Subject: Bisasor v. Harvard, et al., M&R file 338/33393

Mr. Bisasor, please find a courtesy copy of the motion to remand and the memo in support of the motion to remand filed today. A hard copy is also being mailed to you. I did not include the attachments to this email because of the volume, but they are being sent via regular mail.

Thanks,

-Bill Mekrut.

William P. Mekrut

Murphy & Riley, P.C.

101 Summer Street, 2nd Floor

Boston, MA 02110

Telephone: 617-423-3700

Facsimile: 617-423-1010

www.MurphyRiley.com

From: Andre Bisasor [<mailto:quickquantum@aol.com>]

Sent: Friday, February 19, 2016 1:32 PM

To: William Mekrut

Subject: Re: Bisasor v. Harvard, et al., USDC MA 16-cv-10105, Suffolk Superior Court, 14-03606

Mr. Mekrut:

I just got your message that you left today. Please note that I intend to oppose your motion. However, I would like to speak with you to have a chance to narrow the issues. I am tied up this afternoon but I could talk to you on Monday. Please let me if this is agreeable to you.

Andre Bisasor

**EXHIBIT 9 – MOTION TO REMAND BY DEFENDANTS ARORA,
HARDING AND POLLOCK**

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

DOCKET NO. 1:16-cv-10105-DJC

ANDRE BISASOR,
PLAINTIFF,

VS.

DANSLAV SLAVENSKOJ,
HARVARD EXTENSION SCHOOL/
HARVARD UNIVERSITY, ROBERT
H. NEUGEBOREN, MICHAEL
SHINAGEL, HUNTINGTON
LAMBERT, SHIRLEY R. GREENE,
MARGARET C. ANDREWS, ASHLEY
R. POLLOCK, PHILIP HARDING,
KRISHAN ARORA, KEN VEDAA,
JENNIFER WEBB, JOHN AND JANE
DOE, AND AFFILIATED COMPANIES
OF EXTENSIONSTUDENT.COM,
DEFENDANTS.

**DEFENDANTS, ASHLEY R. POLLOCK, PHILIP HARDING
AND KRISHAN ARORA'S MOTION TO REMAND
PURSUANT TO 28 U.S.C §§ 1334(c)(1), 1447(c), AND 1452(b)**

Defendants, Ashley R. Pollock, Philip Harding and Krishan Arora (collectively, Pollock, Harding and Arora) move that the court remand this action to the Massachusetts Superior Court for Suffolk County.

As grounds for this motion, Defendants, Pollock, Harding and Arora hereby adopt and join in the factual background and legal arguments set forth in the Memorandum of Law in Support of the Motion to Remand the Defendants President and Fellows of Harvard College (Misnamed in the Amended Complaint as "Harvard Extension School/Harvard University"), Robert H. Neugeboren, Michael Shinagel, Huntington Lambert, Shirley R. Greene, and Margaret C. Andrews filed on or about February 19, 2019

WHEREFORE, the defendants Pollock, Harding and Arora respectfully request that this Honorable Court (a) find that removal was untimely and remand this action to the Massachusetts Superior Court for Suffolk County (b) equitably remand this action to the Massachusetts Superior Court pursuant to 28 U.S.C. § 1334(c)(1) and remand this action to the Massachusetts Superior Court and (d) grant such further relief as it deems just.

Defendants,

PHILIP HARDING, ASHLEY POLLOCK
AND KRISHAN ARORA,

By their attorneys,

/s/ Joseph P. Dever
Joseph P. Dever, (BBO #564237)
Theresa Finn Dever (BBO # 564319)
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Telephone: 781.581.9880
Facsimile: 781.581.7301
jdever@rileydever.com
tdever@rileydever.com

Dated: February 23, 2016

CERTIFICATE OF SERVICE

I hereby certify that on this date, I caused a copy of the foregoing to be served upon each of the following non-ECF registered parties via first class mail, postage prepaid:

John P. Coakley, Esquire
William P. Mekrut, Esquire
Stephen D. Coppolo, Esquire
MURPHY & RILEY, P.C.
101 Summer Street
Boston, MA 02110

Andre Bisasor, *pro se*
3000 Presidents Way #3413
Dedham, MA 02026

Andre Bisasor, *pro se*
19 Drum Hill Road, #233
Chelmsford, MA 01824

Ken Vedaa, *pro se*
16970 Highland Cir.
Paeonian Springs, VA 20129

Danslav Slavenskoj, *pro se*
2 Greenough Ave., #8
Boston, MA 02130

/s/ Joseph P. Dever
Joseph P. Dever, BBO #564237

Dated: February 23, 2016

**EXHIBIT 10 – DANSLAV SLAVENSKOJ'S SPECIAL MOTION TO
DISMISS IN WHICH HE APPEARS TO ASSERT COUNTERCLAIMS**

supra note 1, at 5). Bisasor then began to complain to Slavenskoj and others about this act of speech. See Am. Compl. ¶56, ¶57, ¶135.

* → Plaintiff alleges that Slavenskoj, in January 2012, made statements that Bisasor was an "enemy of free speech" in connection with Slavenskoj's public campaign for the Stop Online Piracy Act ("SOPA"). See Am. Compl. ¶137. While Bisasor asserts in id. ¶137 that it is "false" that he is "an enemy of free speech", he maliciously describes just such actions taken by Slavenskoj and other defendants in their exercise of free speech and petition as "evil and improper" in id. ¶205.

Bisasor admits that he attempted to interfere with Slavenskoj's right to petition, protest, and campaign as he describes his pleading to various parties to stop Slavenskoj's speech, specifically his interactions with co-defendants affiliated with the President and Fellows of Harvard College. See id. ¶135, ¶155, ¶156, ¶161, ¶191.

X Bisasor has repeatedly sought to use avenues available to him to retaliate against Slavenskoj and other parties who participated in protests, demonstrations, criticism, calls for oversight or review, or otherwise exercised their free speech right to comment on Bisasor's public activities. The Amended Complaint itself is employed in a similar fashion: Bisasor "respectfully prays that this Court... enjoin the defendants from Publishing or causing any statement about Mr. Bisasor" [emphasis added] which is *prima facie* evidence of Andre Bisasor's malicious intent of quashing the rights to free speech and petition of Slavenskoj and other defendants in this case. }

Slavenskoj asserts that the Plaintiff's claims are based on "petitioning activities alone and have no substantial basis other than or in addition to the petitioning activities" as set forth in *Duracraft Corp. v. Holmes Prods. Corp.*, 691, 691 N.E.2d at 943 (Mass. 1998). The Plaintiff fails to describe factually in his Amended Complaint exactly what Slavenskoj did other than

[continued on following page]

engage in such a demonstration of protest by means of his alleged statements described in the Amended Complaint. The Amended Complaint otherwise presents no facts concerning anything Slavenskoj allegedly did whatsoever.

* Slavenskoj believes that this lawsuit was brought to prevent him "from exercising [his] political or legal right" and "to punish [him] for doing so". *Duracraft Corp. v. Holmes Products Corp.*, 427 Mass. 156, 161, 691 N.E.2d 935, 940 (1998). }

* For the foregoing reasons, Defendant Slavenskoj respectfully requests that this Special Motion be granted, and further that the court award Slavenskoj any other such relief as the Court deems just and proper. }

Dated: August 31, 2015.


DANSLAV SLAVENSKOJ

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**EXHIBIT 11 – DANSLAV SLAVENSKOJ'S EMERGENCY
OPPOSITION TO MY SUGGESTION OF BANKRUPTCY IN WHICH
HE MAKES SIMILAR ARGUMENTS TO THAT WHICH HARVARD
MADE IN THEIR MOTION TO LIFT STAY**

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF THE TRIAL COURT

SUFFOLK, SS.

SUPERIOR COURT

ANDRE BISASOR,

Plaintiff,

v.

HARVARD UNIVERSITY EXTENSION
SCHOOL/HARVARD UNIVERSITY;
DANSLAV SLAVENSKOJ;
ROBERT H. NEUGEBOREN;
MICHAEL SHINAGEL;
HUNTINGTON LAMBERT;
SHIRLEY R. GREENE;
MARGARET C. ANDREWS;
ASHLEY R. POLLOCK;
PHILIP HARDING;
KRISHAN ARORA;
KEN VEDAA;
JENNIFER WEBB;
JOHN AND JANE DOE;
AFFILIATED COMPANIES OF
EXTENSIONSTUDENT.COM;

Defendants.

Civil Action No. 14-3606C

**DANSLAV SLAVENSKOJ'S EMERGENCY OPPOSITION TO PLAINTIFF'S
SUGGESTION OF BANKRUPTCY**

NOW Comes the Defendant, Danslav Slavenskoj ("Defendant"), and for his Emergency
Opposition to Plaintiff's Suggestion of Bankruptcy, says:

1. Defendant respectfully requests that this case proceed, as a Suggestion of
Bankruptcy's automatic stay only bars actions against the debtor, Plaintiff Andre Bisasor
("Plaintiff"), and actions brought by the Plaintiff against Defendant should not be affected by the
automatic stay. In re White, 186 B.R. 700 (9th Cir. B.A.P. 1995) ("The trustee or debtor in
possession is not prevented by the automatic stay from prosecuting or appearing in an action
which the debtor has initiated and that is pending at time of bankruptcy."); In re Merrick, 175